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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,450	03/09/2001	Joe Freeman Britt JR.	04676P008X	6840

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EXAMINER

PEREZ DAPLE, AARON C

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 06/10/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

SL

Office Action Summary

Application No.

09/802,450

Applicant(s)

BRITT, JOE FREEMAN

Examiner

Aaron Perez-Daple

Art Unit

2121 2184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Action is in response to Application filed 3/09/01, which has been fully considered.
2. Claims 1-30 are presented for examination.
3. This Action is non-Final.

Claim Objections

4. **Claims 8-10** are objected to because they recite "The system" where they should recite --
The apparatus--. Appropriate correction is required.
5. **Claims 15 and 17-20** are objected to because it appears that they should depend from
claim 11 rather than claim 10, especially since claim 10 recites a system and not a method.
The Examiner notes that the same rejections will apply regardless of the claim dependency.
Appropriate correction is required.
6. **Claims 25 and 28-30** are objected to because it appears that they should depend from
claim 21 rather than claim 20, especially since claim 20 recites a method and not an article of
manufacture. The Examiner notes that the same rejections will apply regardless of the claim
dependency. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1-7, 10-17, 20-27 and 30** are rejected under 35 U.S.C. 102(e) as being anticipated by Perry et al. (US 6,160,489) (hereinafter Perry).
9. As for claims 1, 11 and 21, Perry discloses an apparatus, method and article of manufacture comprising: receiving a transmission from a first caller (col. 5, lines 53-60, "Generally, the desired...incoming page signal."); and identifying said first caller (col. 6, lines 3-6, "Further, the user...the radiotelephone 101."); and vibrating a device in a first predetermined manner based on said first caller's identity (col. 5, line 61- col. 6, line 6, "In the preferred embodiment...the radiotelephone 101.").
10. As for claims 2, 12 and 22, Perry discloses an apparatus, method and article of manufacture as in claims 1, 11 and 21 wherein said first predetermined manner is a first predetermined sequence of vibrations (col. 5, line 61- col. 6, line 6, "In the preferred embodiment...the radiotelephone 101.").
11. As for claims 3, 13 and 23, Perry discloses an apparatus, method and article of manufacture as in claims 2, 12 and 22 wherein said first predetermined sequence of vibrations comprises vibrations of differing periods of time (Fig. 3; col. 5, lines 33-43, "Fig. 3 is...if so desired.").
12. As for claims 4, 14 and 24, Perry discloses an apparatus, method and article of manufacture as in claims 3, 13 and 23 wherein said vibrations of differing periods of time are separated by differing periods of time during which said apparatus does not vibrate (Fig. 3; col. 5, lines 33-43, "Fig. 3 is...if so desired.").

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13. As for claims 5, 15 and 25, Perry discloses an apparatus, method and article of manufacture as in claims 1, 11 and 21 wherein said first predetermined manner is a first frequency (Fig. 3; col. 6, lines 32-40, "In the preferred...if so desired.").
14. As for claims 6, 16 and 26, Perry discloses an apparatus, method and article of manufacture as in claims 5, 15 and 25 wherein said first predetermined manner is said first frequency in combination with a first predetermined sequence of vibrations (Fig. 3; col. 6, lines 32-40, "In the preferred...if so desired.").
15. As for claims 7, 17 and 27, Perry discloses an apparatus, method and article of manufacture as in claims 1, 11 and 21 further comprising: receiving a transmission from a second caller (col. 5, line 61- col. 6, line 6, "In the preferred embodiment...the radiotelephone 101."); and identifying said second caller (col. 5, line 61- col. 6, line 6, "In the preferred embodiment...the radiotelephone 101."); and vibrating a device in a second predetermined manner based on said second caller's identity (col. 5, line 61- col. 6, line 6, "In the preferred embodiment...the radiotelephone 101.").
16. As for claims 10, 20 and 30, Perry discloses an apparatus, method and article of manufacture as in claims 1, 11 and 21 wherein said transmission is a standard telephone call (col. 5, lines 53-60, "Generally, the desired...incoming page signal.").

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. **Claims 8, 9, 18, 19, 28 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry. Although Perry discloses that the vibration may be in response to any one of a variety of incoming communications, Perry does not specifically disclose that the communication may comprise email or an instant message. "Official Notice" is given that it is both well-known and expected in the art to receive email and instant messages on devices such as wireless phones. See for example cited reference US 6,405,035 B1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Perry by vibrating in a first predetermined manner when receiving an email or an instant message for the purpose of distinguishing the communication.


Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,405,035 B1, note teaches email and instant messaging; US 6,418,330 B1, note teaches selective ring tones; US 6,574,489 B1, note teaches selective vibration for identifying caller; US 6,178,230 B1, note caller identification; US 6,385,303 B1, note caller identification; US 6,058,171, note user specified ring patten for caller identification; US 6,119,022, note Fig. 1; US 6,373,958 B1, note teaches generating sound through vibration mechanism for mobile device; US 5,966,671, note Fig. 5.
20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Perez-Daple whose telephone number is 703-305-4897. The examiner can normally be reached on 9am - 6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5/27/04

Aaron Perez-Daple


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